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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 JORGE ANTHONY CARRASCO aka  
11 TONY CARRASCO MOTORS; and  
12 NANCY JEAN CARRASCO, an  
individual,

13 Plaintiff,

14 vs.

15 STANLEY IVAN HORWITZ, an  
16 individual; ANITA HORWITZ, an  
17 individual; THE SPRING STAR  
18 TRUST, a Trust; KENNETH G.  
ADAMS REVOCABLE TRUST dtd  
05/14/93; and ALAN G. HORWITZ,  
individually and as trustee of the Star  
Spring Trust and Kenneth G. Adams  
Revocable Trust; and DOES 1 through  
50,

19 Defendant.

CASE NO. 14cv1645-WQH-DHB

**ORDER OF REMAND**

20 HAYES, Judge:

21 On January 29, 2013, Plaintiffs Jorge Anthony Carrasco and Nancy Jean  
22 Carrasco commenced this action by filing a Complaint in San Diego County Superior  
23 Court. (ECF No. 1 at 2). On June 14, 2014, Plaintiffs filed the Second Amended  
24 Complaint (“SAC”), which is the operative pleading. *Id.* The SAC asserted two claims  
25 for violations of the Racketeering Influenced and Corrupt Organizations Act (“RICO”)  
26 and various state-law claims. On July 11, 2014, Defendants Alan Horwitz, the Star  
27 Spring Trust, and the Kenneth G. Adams Revocable Trust removed the action to this  
28 Court pursuant to 28 U.S.C. § 1441(a) on the basis of federal question jurisdiction.

(ECF No. 1). On July 22, 2014, Defendants Alan Horwitz, Kenneth G. Adams Revocable Trust, and The Star Spring Trust filed the Motion to Dismiss Plaintiffs' Second Amended Complaint. (ECF No. 8). On July 25, 2014, Defendants Stanley Horwitz and Anita Horwitz filed the Motion to Dismiss Plaintiffs' Second Amended Complaint. (ECF No. 9). Both motions requested dismissal of Plaintiffs' RICO claims.

On January 7, 2015, the Court issued an Order granting the motions to dismiss. (ECF No. 37). The Court dismissed Plaintiffs' RICO claims without prejudice. The Court stated: "No later than **thirty (30) days** from the date this Order is filed, Plaintiffs may file a motion for leave to file a first amended complaint. If no motion for leave to file a first amended complaint is filed, Defendants shall show cause as to why this case should not be remanded to state court within **twenty (20) days** of the expiration of the thirty-day period." *Id.* at 15. The docket reflects that Plaintiffs did not file a motion for leave to file a first amended complaint within thirty days of the Court's January 7, 2015 Order. The docket further reflects that Defendants have not filed a response to the Court's order to show cause within twenty days of the expiration of the thirty-day period.

"[I]n any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution." 28 U.S.C. § 1367(a). "The district courts may decline to exercise supplemental jurisdiction over a claim under subsection (a) if ... the district court has dismissed all claims over which it has original jurisdiction." 28 U.S.C. § 1367(c)(3). A district court has discretionary authority to remand under 28 U.S.C. § 1367(c). *United Investors Life Ins. Co. v. Waddell & Reed Inc.*, 360 F.3d 960, 966 (9th Cir. 2004). "[I]n the *usual* case in which federal-law claims are eliminated before trial, the balance of factors ... will point toward declining to exercise jurisdiction over the remaining state law claims." *Schneider v. TRW, Inc.*, 938 F.2d 986, 993 (9th Cir. 1991) (quoting *Carnegie-Mellon Univ. v. Cohill*,

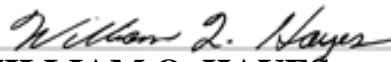
1 484 U.S. 343, 350 n.7 (1970)) (emphasis in original). “Supreme Court and Ninth  
 2 Circuit precedent teaches us that the district court is in the best position to judge the  
 3 extent of resources invested in a case and that, therefore, the district court’s discretion  
 4 ought not be lightly disturbed.” *Id.* at 993-94. “Depending on a host of factors,  
 5 then—including the circumstances of the particular case, the nature of the state law  
 6 claims, the character of the governing state law, and the relationship between the state  
 7 and federal claims—district courts may decline to exercise jurisdiction over  
 8 supplemental state law claims.” *Chicago v. Int’l Coll. of Surgeons*, 522 U.S. 156, 173  
 9 (1997). “While discretion to decline to exercise supplemental jurisdiction over state  
 10 law claims is triggered by the presence of one of the conditions in § 1367(c), it is  
 11 informed by the [*United Mine Workers of Am. v. Gibbs*, 383 U.S. 715 (1966)] values  
 12 ‘of economy, convenience, fairness, and comity.’” *Acri v. Varian Assocs., Inc.*, 114  
 13 F.3d 999, 1001 (9th Cir. 1997) (en banc). “[A] district court has discretion to remand  
 14 to state court a removed case involving pendent claims upon a proper determination that  
 15 retaining jurisdiction over the case would be inappropriate.” *Cohill*, 484 U.S. at 357;  
 16 *see also Williams v. Costco Wholesale Corp.*, 471 F.3d 975, 977 (9th Cir. 2006)  
 17 (“Dismissal of the federal claim would ... ordinarily ... have authorized the district court  
 18 to remand the pendent state law claims.”).

19 In this case, Defendants removed the action on the basis of federal question  
 20 jurisdiction. (ECF No. 1). The notice of removal does not assert diversity of  
 21 citizenship. The notice of removal asserts that the Court has supplemental jurisdiction  
 22 over Plaintiffs’ state-law claims. This action was pending in San Diego County  
 23 Superior Court for over seventeen months before it was removed to this Court, and the  
 24 Court has not addressed the merits of Plaintiffs’ state-law claims. Taking into  
 25 consideration the values of economy, convenience, fairness, and comity, the Court  
 26 declines to exercise supplemental jurisdiction over Plaintiffs’ state-law claims.

27 IT IS HEREBY ORDERED that this action is REMANDED to the Superior  
 28 Court of California for the County of San Diego, where it was originally filed and

1 assigned case number 37-2013-00032434-CU-BC-CTL.

2 DATED: March 6, 2015

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4 **WILLIAM Q. HAYES**  
5 United States District Judge  
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